

Cover Sheet for:

Site Plan 8-98001

Site Plan Enforcement Agreement

LINOWES AND BLOCHER

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March 18, 1999

Todd D. Brown
301.650.7113

BY HAND DELIVERY

Ms. Wynn Witthans
Development Review Division
Maryland-National Capital Park
and Planning Commission
8787 Georgia Avenue
Silver Spring, MD 20910

Re: Site Plan No. 8-98001 (Clarksburg Town Center) -- Site Plan Enforcement Agreement

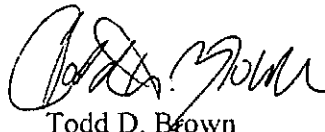
Dear Ms. Witthans:

On behalf of the Applicants, Clarksburg Land Associates Limited Partnership and Piedmont Land Associates Limited Partnership, enclosed please find the executed Site Plan Enforcement Agreement for the Clarksburg Town Center. The Agreement has been modified pursuant to our March 11, 1999 telephone conversation. Thank you for your expeditious final review of the Agreement. Please contact us once the Agreement has been signed by Joe Davis.

Thank you.

Sincerely,

LINOWES AND BLOCHER LLP



Todd D. Brown

TDB:cp
Enclosure

cc: Mr. Steven Klebanoff
Mr. Marcus Montgomery
Stephen Z. Kaufman, Esquire

SITE PLAN ENFORCEMENT AGREEMENT

THIS AGREEMENT, made this 13th day of May, 1999, by and between CLARKSBURG LAND ASSOCIATES LIMITED PARTNERSHIP and PIEDMONT LAND ASSOCIATES LIMITED PARTNERSHIP (collectively, the "Developer"), and the MONTGOMERY COUNTY PLANNING BOARD OF THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION (hereinafter the "Planning Board").

WHEREAS, Text Amendment No. 80025, approved July 21, 1981, effective October 15, 1981, amended Section 59-D-3.3 of the Montgomery County Code to require as a part of the site plan review process that applicants enter into a formal agreement with the Planning Board requiring the applicant to execute all features of the approved site plan in accordance with the Development Program required by Section 59-D-3.23(m) of the Montgomery County Code, 1984 (as, amended); and

WHEREAS, pursuant to Section 59-D-3 of the Montgomery County Code, 1984 (as amended), Developer filed with the Planning Board an application for approval of a site plan, denominated Site Plan Application No. 8-98001, and amendments thereto; and

WHEREAS, the property which is the subject of Site Plan Application No. 8-98001 consists of approximately 120 acres located northeast of Maryland Route 355, between Clarksburg Road and Stringtown Road, Clarksburg, Montgomery County, Maryland (the "Subject Property"); and

WHEREAS, Site Plan No. 8-98001 proposes the construction on the Subject Property of 768 dwelling units (75 single-family

detached, 398 multi-family units, and 295 townhouses), together inclusive of 96 MPDUs; and

WHEREAS, attached hereto are copies of the following Exhibits, each of which is incorporated herein by reference:

Exhibit "A" - Planning Board Opinion approving, with conditions, Site Plan No. 8-98001;

Exhibit "B" - Development Program

Exhibit "C" - Certified Site Plan

Exhibit "D" - Certified Landscape and Lighting Plan

Exhibit "E" - Phasing Plan

Exhibit "F" - Circle Page 49 of Staff Report for Preliminary Plan 1-95042 dated September 22, 1995.

Exhibit "G" - Department of Parks Memorandum dated September 22, 1995.

WHEREAS, the parties hereto desire to set forth herein their respective requirements and obligations pursuant to Section 59-D-3.3 of the Montgomery County Code, 1994 (as amended).

NOW, THEREFORE, in consideration of the mutual promises and stipulations set forth herein and pursuant to the requirements of Section 59-D-3.3 of the Montgomery County Code, 1994 (as amended), the parties hereto agree as follows.

1. In accordance with approval by the Planning Board of Site Plan No. 8-98001, Developer agrees that, when it commences construction on any phase as set forth in the Development Program attached hereto as Exhibit "B", or any amendments thereto, it will execute and maintain all the features of the site plan for that phase as required by Section 59-D-3.23 in fulfillment of the

approval granting Site Plan No. 8-98001, and any subsequent amendments approved by the Planning Board. Developer agrees to install and construct all features of the site plan, such as recreational facilities and landscaping, in a good and workmanlike manner.

2. Developer agrees that construction of the Subject Property will progress in accordance with the Development Program as set forth in Exhibit "B" or any amendments thereto.

3. Representatives or designees of the Planning Board may enter upon the Subject Property from time to time for the purpose of inspection and enforcement of the terms, conditions and restrictions of this Agreement. Whenever possible, a representative of Developer shall be provided an opportunity to be present at said inspection. In the event that the representative or designee of the Planning Board determines on the basis of said inspection that construction is not progressing in accordance with Site Plan No. 8-98001 or the Development Program, the representative or designee shall promptly advise Developer concerning the problem.

4. Representatives or designees of the Planning Board shall inspect each phase and the construction thereon for compliance with Site Plan No. 8-98001 in accordance with the Development Program or any amendments thereto. Inspection of the Subject Property shall be made promptly after receipt of written notice from Developer, as set forth in the Development Program and, whenever possible, a representative of Developer shall be present

at said inspection. The Planning Board shall promptly advise Developer in writing concerning the results of said inspection. All reasonable efforts will be made to conduct the inspection and inform Developer of the results within ten (10) working days of the date of such written notice.

5. The Planning Board shall recommend for issuance within a reasonable time any permits sought by Developer when the Planning Board determines that said permit requests are consistent with the approved Site Plan No. S-98001 and any amendments thereto. Such approval shall not be unreasonably withheld.

6. In the event any party deems there has been a breach of the terms, conditions and restrictions of this agreement, an aggrieved party may pursue all remedies provided by Maryland law.

7. Wherever any portion of this Agreement or the Development Program submitted herewith as Exhibit "B", or any amendments thereto are in conflict with agreements pertaining to the Subject Property entered into between Developer and any federal, state or county agency, Developer shall promptly notify the Planning Board concerning such conflict. The Planning Board or its designee will cooperate in attempts to resolve the conflict. Should an unreasonable delay ensue due to the failure to resolve said conflict, Developer shall have the right to seek in a timely manner judicial determination of the rights and obligations of all parties, and the Planning Board, for its part, agrees to cooperate in expediting said judicial determination.

8. If Developer determines, following commencement of construction on the Subject Property, that the full Development Program cannot be achieved for any reason, Developer will submit for approval a restoration schedule to the designee of the Planning Board for purposes of amending the Development Program.

9. Approval of a feature of Site Plan No. 8-98001 by the Planning Board after inspection shall not constitute a warranty that the feature is free of latent defects. Therefore, if the Planning Board or its designee approves a feature of Site Plan No. 8-98001 which contains a latent defect which was not readily apparent at the time of inspection, upon discovery of said latent defect, the Planning Board may avail itself of the remedial steps provided for under the terms of the Agreement.

10. This Agreement may only be modified in a writing signed by the parties hereto, their heirs, successors or assigns.

11. This agreement shall be binding upon the heirs, successors and assigns of all parties hereto.


[SIGNATURE PAGE FOLLOWS]

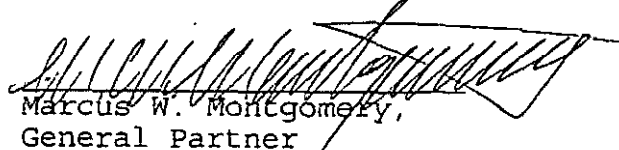
IN WITNESS WHEREOF, the parties hereto have hereunto set our hands and seals as of the date first written above.

WITNESS/ATTEST:


CLARKSBURG LAND ASSOCIATES
LIMITED PARTNERSHIP

By: SUMNER CLARKSBURG LIMITED
PARTNERSHIP,
a Maryland limited partnership,
Managing General Partner

By: 
Steven M. Klebanoff,
Sole General Partner

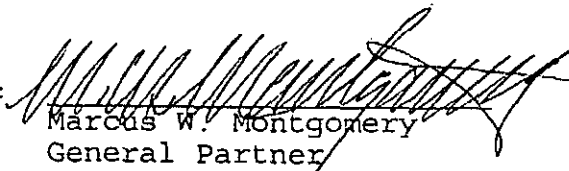
By: 
Marcus W. Montgomery,
General Partner

PIEDMONT LAND ASSOCIATES
LIMITED PARTNERSHIP

By: 
Steven M. Klebanoff
Managing General Partner

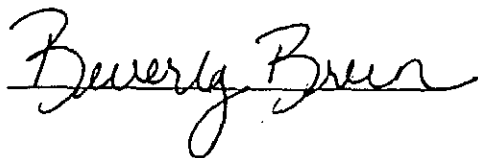
APPROVED AS TO LEGAL SUFFICIENCY

NR 5/14/95
M-NCPPC LEGAL DEPARTMENT

By: 
Marcus W. Montgomery
General Partner

WITNESS/ATTEST:

MONTGOMERY COUNTY PLANNING BOARD




By: 
Joseph R. Davis, Designee

EXHIBIT "B"

DEVELOPMENT PROGRAM
SITE PLAN NO. 8-98001

PHASING

Developer anticipates developing the 768 dwelling units approved by the Planning Board in Site Plan No. 8-98001 in four (4) phases as depicted on the Phasing Plan attached to the Site Plan Enforcement Agreement as Exhibit "E" ("Phasing Plan"). Developer reserves the right to adjust the number of phases or the sequence of phasing, provided development in each phase proceeds as set forth below. Infrastructure, amenities and units to be provided in accordance with the following sequence, regardless of which phase of the development proceeds first:

Site Preparation (for the Subject Property or by Phases, as Applicable).

- Protection devices around all tree-save areas.
- Sediment control.
- Construction of stormwater management basins and initial outfitting as sediment basins.

To be Completed as Applicable, with Respect to each Phase Depicted on the Phasing Plan. Regardless of Phasing Sequence.

- Water and sewer.
- Commence construction of residential units.
- Street tree planting must progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
- Community-wide pedestrian pathways and recreation facilities in each phase of the development must be completed prior to seventy percent occupancy of such phase.
- Landscaping associated with each parking lot and building shall be completed as construction of each

facility is completed, but no later than three months after completion of the facility.

- Pedestrian pathways and seating areas associated with each recreation facility shall be completed as construction of each facility is completed.
- Site clearing and grading shall be phased to correspond to the construction phasing to minimize soil erosion.
- Each section of the development shall be coordinated with on-site road construction.
- Stormwater management and forest conservation shall be phased according to approved plans.
- Paving of roads (excluding final topping) and parking areas shall be completed prior to occupancy of adjacent units.

Site Stabilization

- Conversion of sediment basins to stormwater management basins pursuant to the Phasing Plan.
- Removal of remaining sediment control devices.

STIPULATIONS

In accordance with the conditions set forth in the Montgomery County Planning Board's Decision approving Site Plan No. 8-98001, the Developer agrees to the following stipulations:

(a) Developer shall submit the Site Plan Enforcement Agreement, Development Program and Homeowners Association Documents for review prior to approval of the signature set of plans.

(b) Developer shall clearly show the following information on the signature set of site plan, landscape/lighting, forest conservation, and sediment and erosion control plans for Planning Staff review prior to approval by the Montgomery County Department of Permitting Services:

1. Undisturbed stream buffers of approximately 120 to 150 feet wide, as shown in more detail on the Site Plan;
2. Limit of disturbance;

3. Methods and location of tree protection;
4. Forest Conservation areas;
5. Conditions of MCDPS Water Quality/Stormwater Management Concept approval letter dated January 15, 1998;
6. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading;
7. The development program inspection schedule;
8. Category I and II Conservation easement and park dedication boundary;
9. Street trees along all public and private streets inclusive of the arterial streets surrounding the project;
10. Centralized, screened trash areas for all multi-family and one-family attached units except townhouses;
11. Details for and location of wood noise fencing to attenuate current noise levels to no more than 60 dBA Ldn for the outdoor backyard area of homes at Stringtown Road and Mid-County Arterial (i.e., Lots 23 and 33, Block K and Lot 51, Block L);
12. Note stating that the certification of a professional acoustical engineer that building shells can be constructed to attenuate current noise levels to an interior level not to exceed 45 dBA Ldn, for lots fronting Stringtown Road and Mid-County Arterial (i.e., Lots 23-33 and 47-51, Block K and Lots 21-51, Block L), shall be provided to Staff prior to release of building permits for such lots.

(c) The approved Forest Conservation Plan shall satisfy all applicable conditions of approval prior to recording of plat and MCDPS issuance of sediment and erosion control permit.

(d) No clearing or grading prior to Planning Department approval of signature set of plans except that Developer and/or the WSSC may install the utility trunk sewer line to serve the property in accordance with WSSC approved plans.

(e) All agricultural areas within the environmental buffer which have not yet been taken out of production and

stabilized with a suitable grass cover will be so converted prior to clearing and grading of such areas.

(f) Record plats shall reflect delineation of a Category I and II Conservation Easement which includes areas affected by Site Plan 8-98001 to show a 100 year flood plain, stream/wetland buffer and forest conservation areas.

(g) The Developer shall submit final design plans for the stream valley crossing at Main Street to Environmental Planning Division staff for review and comment prior to approval by MCDPS/MCDPW&T. Plans must demonstrate adherence to the current MCDPS/MCDPW&T Guidelines for Environmentally Sensitive Stream Crossings.

(h) The Developer and MNCPPC Environmental Planning Staff and Parks Department Staff shall field locate the natural surface trail within the Greenway Park prior to stakeout and construction. The stream crossing under Main Street shall be evaluated jointly by the Developer and MNCPPC Staff for adequacy of providing dismounted equestrian crossing. The bike path along Greenway Road shall be reviewed by staff to evaluate the consideration of expanding the path to 10 feet in width, pending the adequacy of Special Protection Area review by MCDPS and MCPD staff.

(i) Final erosion and sediment control plans shall be submitted to Environmental Planning Division staff for review and comment prior to approval by MCDPS.

(j) The Developer shall implement a program of daily inspections, maintenance and repairs as necessary, and detailed daily documentation of inspection and maintenance activities for all sediment and erosion control measures required and constructed on the site. Such a program shall be carried out under the direction of MCDPS and the Developer shall pay the associated reasonable costs. The Developer shall continue to meet with and cooperate with MCDPS. Documentation of inspection, maintenance and repair activities shall be available for MCDPS review and use.

(k) The Forest Conservation Plan shall be approved and bonded prior to issuance of the erosion and sediment control permit.

(l) All stormwater management outfalls which extend into the environmental buffer shall be field located by Developer's representative, MCDPS, and MNCPPC Environmental staff prior to approval of the stormwater management/sediment control permits by MCDPS.

(m) MNCPPC Environmental Planning Division staff shall review and approve detailed design plans for any wetland mitigation sites within the environmental buffers prior to issuance of sediment control permits or authorization to clear and grade any of these areas.

(n) Developer shall reduce the amount of impervious surfaces within the development by deleting the on-street parking and reducing road pavement on: (1) the stream valley side of the Greenway Road in the immediate vicinity of Main Street; (2) the stream valley side of Street "C" from Street "D" to the bikepath crossing; and (3) on Street "D" west of its intersection with Street "C", each pending MCDPW&T and MCDPS approval.

(o) Developer shall revise Sheet L-9 of the landscape plans to increase the evergreen tree planting along Stringtown Road in order to provide more year-round visual screening of outdoor rear yard areas from Stringtown Road for noise mitigation purposes.

(p) Developer shall revise the signature set of site and landscape plans to show 6-foot fences for visual screening of the rear yards of Lots 23 and 33, Block K and Lot 51, Block L from Stringtown Road for noise mitigation purposes.

(q) Signature set of landscape plans shall include planting for all stormwater management facilities and shall be reviewed and approved by M-NCPD staff in coordination with MCDPS.

(r) Developer shall show conformance to all waivers to be approved by DPW&T and DPS per memos dated January 14 and 15, 1998, respectively, as they may be amended.

(s) Developer shall show conformance to cross section and other recommendations per DPW&T, DPS memos dated January 14 and January 15, 1998, respectively, as they may be amended.

(t) The project shall conform to MCPD Transportation Planning memo dated January 20, 1998.

(u) APF Agreement to be executed prior to the first record plat to reflect all road improvement conditions of the Preliminary Plan Approval, i.e., dedication, and construction of required improvements pertaining to the construction of Stringtown Road (A-260), Clarksburg Road (A-121) and Mid-County Arterial (A-305). If acquisition of right-of-way becomes necessary for any of the road improvements the applicant is required to provide pursuant to Site Plan conditions 17 and 18, and the County exercises Eminent Domain to acquire these rights-of-way, the

applicant will be responsible to reimburse the County for these reasonable costs.

(v) Developer shall dedicate and construct "O" Street extended prior to the recordation of the last lot in the entire project or when the dedication of "O" Street by the adjacent property owners is made in conjunction with future development proposals.

(w) Developer shall provide a turn around at the end of Main Street by the Historic District until the connection to MD 355 is established.

(x) Developer shall provide signs for the Class III bike path along Main Street.

(y) If applicable, per MC Public Schools memo of December 31, 1997, the Developer shall conduct a testing program, the final report signed and sealed by a registered professional engineer, authenticating the adequacy of the deposited soils to support typical building foundation loads.

(z) With the respect to the culvert crossing under Main Street, the Greenway path shall include sufficient space to provide for a lighted, stabilized path and adequate headroom for pedestrian crossing.

(aa) The parks/school dedications schedule shall conform to Preliminary Plan # 1-95042 Conditions 6 and 7 (see discussion below).

(bb) All sales contracts, advertising and other information shall include notification that there is an active park in the area and that traffic calming measures will be installed with final paving.

(cc) All construction within M-NCPPC property shall meet Parks Department specifications and approval prior to release of construction permits for the park.

(dd) Developer agrees the right-of-way for Stringtown Road should be no closer to the historic Day House than 15 feet from the porch column, subject to MCDPW&T and MCDPS approval of the cross section for Stringtown Road.

(ee) Developer agrees lighting at all road intersections within the Historic District, and especially at Stringtown Road and Frederick Road, should be designed to have a minimal impact on the Historic District. The lighting within the Historic District - both fixtures and intensity - should be

compatible with the historic and residential character of the area, as allowed by the utility companies and MCDPW&T and MCDPS.

(ff) Per the Project Plan approval, when the ROW is made available, construct Main Street to MD 355 within the Historic District prior to completion of the project. At such time when the land is made available, share direct moving expenses only for relocating an existing house within the Historic District, and if the applicant and owner agree, make available the identified outlot to be merged with a portion of the adjacent parcel so as to create another lot.

(gg) Developer shall prepare a detailed design for the public space/interpretative area which will include the Clark Family Cemetery headstones for staff review and approval prior to release of signature set of plans.

(hh) Developer shall adjust the lot lines to include Outlot "A" in the single-family home area directly adjacent to the Historic District, to fulfill the Project Plan condition to approximate R-200 zone lot width standards.

(ii) Detailed landscaping plans for this site plan are to be approved by staff prior to the signature set and should reflect the design concepts, the sizes and planting conditions established in the submittal and to consider the climate suitability and their potential to be deer proof.

(jj) Final lighting plans for the internal streets to be comparable to the "Hagerstown" light fixture and shall be configured so as to reduce the glare into the night sky by utilizing appropriate wattage, shields or other techniques that are in conformance with utility company and MCDPS and MCDPW&T requirements.

(kk) Landscaping Plan shall show interim landscaping for the Town Square prior to the construction of adjoining units, for staff review and approval.

(ll) The MPDU townhouses in the Town Square District shall include recreation areas nearby; the site plan and record plats must identify all MPDU locations.

(mm) Landscape plans shall include a partial evergreen screen along Stringtown Road; detailed plans for greenway to include planting on steep slopes; additional planting within the SWM facilities; and a sidewalk connection from the street sidewalk to the property line from Street "O" to the adjoining church.

(nn) Developer may propose compatible changes to the units proposed, as market conditions may change, provided the fundamental findings of the Planning Board remain intact and in order to meet the Project Plan and Site Plan findings. Consideration shall be given to building type and location, open space, recreation, pedestrian and vehicular circulation, adequacy of parking, etc. for staff review and approval.

(oo) Developer shall work with the County executive staff to identify a suitable civic building to be located on the town square within the area to be dedicated for that use.

(pp) The Homeowners Association documents or equivalent shall include provision for: complete public use and access to private streets for vehicular and pedestrian use; that such streets shall be permanently open for public use; that the parking spaces may be assigned to individual units; that the HOA shall maintain specified streetscape items within the public right-of-way for Main Street and "K" Street as identified on the Signature Set, i.e., brick walks, lights, etc. Developer shall record a Declaration of Covenants among the Land Records of Montgomery County, Maryland, assuring the perpetual maintenance of all private streets, recreation areas, open spaces and stormwater management facilities. The level of maintenance of such areas for the entire project shall be of equal quality and not solely dependent upon contributions from an individual area.

(qq) There shall be no construction of units adjoining Mid-County Arterial in Block M, per Preliminary Plan #1-95042 Condition 16e, until the Mid-County Arterial is built.

(rr) The Planning Board recommends that the vertical alignment and grading of the landscape strip and bikeway along the northern ROW of Stringtown Road to be designed such that retaining walls are not required in the vicinity of the historic house, subject to the review and approval of MCDPS and MCDPW&T.

DEVELOPMENT PHASING PLAN

See pp. E-1 through E-6.

INSPECTION

1. Each phase of the project shall have three (3) separate inspections by the Montgomery County Planning Board. The first inspection shall occur after placement of protective devices around tree-save areas and before clearing and grading occurs. The second inspection shall occur at seventy percent (70%) occupancy of each phase. The third inspection shall occur upon completion of the work within each phase.

2. Each inspection described above shall be made promptly after receipt of written notice from Developer, and all reasonable efforts will be made by M-NCPPC to conduct the inspection and inform Developer of the results within ten (10) working days of the date of notice.

M-NCPPC



MONTGOMERY COUNTY DEPARTMENT OF PARK AND PLANNING

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION8787 Georgia Avenue
Silver Spring, Maryland 20910-3760

MONTGOMERY COUNTY PLANNING BOARD

O P I N I O N

DATE MAILED: March 3, 1998

SITE PLAN REVIEW: #8-98001

PROJECT: Clarksburg Town Center Site Plan Review # 8-98001

The date of this written opinion is March 3, 1998 (which is the date that this opinion is mailed to all parties of record). Any party authorized by law to take an administrative appeal must initiate such an appeal, as provided in the Maryland Rules of Procedure, on or before April 3, 1998, (which is thirty days from the date of this written opinion). If no administrative appeal is timely filed, then this site plan shall remain valid until March 26, 2005 (which is the date that the validity period associated with the Preliminary Plan, 1-95042, is set to expire as of the date of this opinion), as provided in Section 59-D-3.8.

First Action: Water Quality Review for Development in Designated Special Protection Areas

Action: Approval subject to conditions. Motion was made by Commissioner Bryant, seconded by Commissioner Holmes, with a vote of 5-0, Commissioners Baptiste, Bryant, Holmes, Hussmann and Richardson voting for and no Commissioners voting against. All Commissioners were present.

On January 22, 1998, The Water Quality Review for Development in Designated Special Protection Areas per Montgomery County Code Section 19-67 in accordance with Section 10, was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based on the testimony and evidence presented and on the staff report which is made a part hereof, the Montgomery County Planning Board finds:

APPROVAL OF FINAL WATER QUALITY PLAN including the Stormwater Management Concept with conditions as stated within the January 15, 1997 memo from MCDPS in Appendix; including waiver of Chapter 49-35 through 49-43 of the County Code (Bill 46-91) " Closed Section Roads in the SPA" as noted in Site Plan Review #8-98001.

Second Action: Site Plan # 8-98001 Approval

Action: Approval subject to conditions. Motion was made by Commissioner Holmes, seconded by Commissioner Bryant, with a vote of 5-0 , Commissioners: Baptiste, Bryant, Holmes, Hussmann and Richardson voting for and no Commissioners voting against. All Commissioners were present.

On January 22, 1998, Site Plan Review #8-98001 was brought before the Montgomery County Planning Board for a public hearing. At the public hearing, the Montgomery County Planning Board heard testimony and received evidence submitted in the record on the application. Based on the testimony and evidence presented and on the staff report which is made a part hereof, the Montgomery County Planning Board finds:

1. The Site Plan is consistent with the approved development plan or a project plan for the optional method of development, if required;
2. The Site Plan meets all of the requirements of the zone in which it is located;
3. The locations of the buildings and structures, the open spaces, the landscaping, and the pedestrian and vehicular circulation systems are adequate, safe, and efficient;
4. Each structure and use is compatible with other uses and other site plans and with existing and proposed adjacent development;
5. The site plan meets all applicable requirements of Chapter 22A regarding forest conservation.

The Montgomery County Planning Board **APPROVES** Site Plan Review #8-98001 which consists of 768 Dwelling Units (75 SFD, 295 TH's and 398 Multifamily units), inclusive of 96 MPDU's, subject to the following waivers:

Section 59 -E-3.7 - Schedule of off street parking spaces (to reduce the number of on-site parking spaces with the provision of parking within the public street);

Section 59-C-10.38 - Minimum Building Setbacks - reduces building setbacks to 50 feet

adjoining the abutting property as established in the Project Plan;

Additionally, the approval confirms the waivers established with Preliminary Plan #1-95042 :

- 1) waiver of distance between intersections per 50-26 Subdivision Regulations;
- 2) approval of closed section street sections subject to MCDOT approval;

and as subject to the following conditions:

1. Standard Conditions of Approval dated January 16, 1998 (Appendix A).

Environment

2. All agricultural areas within the environmental buffer which have not yet been taken out of production and stabilized with a suitable grass cover will be converted accordingly prior to any authorization to clear and grade for development on the property.
3. Record plats to reflect delineation of a Category I Conservation easement which includes areas affected by this site plan to show a 100 year floodplain, stream/wetland buffer and forest conservation areas that are not part of the park dedication area.
4. Submit final design plans for the stream valley crossings at Main Street to Environmental Planning Division staff for review and comment prior to approval by MCDPS/MCDPWT. Plans must demonstrate adherence to the current MCDPS/MCDPWT Guidelines for Environmentally Sensitive Stream Crossings.
5. Proposed natural surface trail within the Greenway Park to be field located by applicant's representative and M-NCPPC Environmental Planning and Park staff per Development Program within the Site Plan Enforcement Agreement. The stream crossing under Main Street shall be evaluated for adequacy of providing equestrian crossing. The bike path along Greenway Road shall be reviewed by staff to evaluate the consideration of expanding the path to 10 feet in width, pending the adequacy of SPA review by the MCDPS and MCPD staff.
6. Final erosion and sediment control plans shall be submitted to Environmental Planning Division staff for review and comment prior to approval by MCDPS.
7. The applicant shall implement a program of daily inspections, maintenance and repairs as necessary, and detailed daily documentation of inspection and maintenance activities for all sediment and erosion control measures required and constructed on the site. Such a program shall be carried out under the direction of MCDPS and the applicant shall pay the associated reasonable costs. The applicant shall continue to meet with and cooperate with MCDPS. Documentation of inspection, maintenance, and repair activities shall be available for DPS

review and use.

8. The Forest Conservation Plan shall be approved and bonded prior to issuance of the erosion and sediment control permit.
9. All stormwater management outfalls which extend into the environmental buffer shall be field located by applicant's representative, MCDPS, and M-NCPPC Environmental staff prior to approval of the stormwater management/sediment control permits by MCDPS.
10. M-NCPPC Environmental Planning Division staff shall review and approve detailed design plans for any wetland mitigation sites within the environmental buffers prior to issuance of sediment control permits or authorization to clear and grade any of these areas.
11. Reduce the amount of impervious surfaces within the development by deleting the on-street parking and reducing road pavement on: 1) the stream valley side of the Greenway Road in the immediate vicinity of Main Street; 2) the stream valley side of Street "C" from Street "D" to the bikepath crossing; and 3) on Street "D" west of its intersection with Street "C" pending MCDPW&T and MCDPS approval.
12. Revise Sheet L-9 of the landscape plans to increase the evergreen tree planting along Stringtown Road in order to provide more year-round visual screening of outdoor rear yard areas from Stringtown Road for noise mitigation purposes.
13. Revise the signature set of site and landscape plans to show 6 foot fences for visual screening of the rear yards of Lots 23 and 33, Block K and Lot 51, Block L from Stringtown Road for noise mitigation purposes.
14. Signature set of the landscape plans to include planting for all stormwater management facilities and to be reviewed and approved by M-NCPPC staff in coordination with MCDPS.
15. No clearing or grading prior to Planning Department approval of the signature set of site plans.

Transportation

16. Show conformance to all waivers to be approved by DPW&T and DPS per memos dated January 14 and 15, 1998, respectively, included in the Appendix and as they may be amended.
17. Show conformance to cross section and other recommendations per DPW&T, DPS memos dated January 14 and January 15, 1998, respectively, included in the Appendix and as they may be amended.

18. Conformance to MCPD Transportation Planning memo dated January 20, 1998 included in the Appendix.
19. APF agreement to be executed prior to the first record plat to reflect all road improvement conditions of the Preliminary Plan Approval ie dedication, and construction of required improvements pertaining to the construction of Stringtown Road (A-260), Clarksburg Road (A-121) and Mid-County Arterial (A305). If acquisition of right-of-way becomes necessary for any of the road improvements the applicant is required to provide pursuant to Site Plan conditions 17 and 18, and the County exercises Eminent Domain to acquire these right-of-way, the applicant will be responsible to reimburse the County for these reasonable costs.
20. Dedication and construction of "O Street extended to occur prior to the recordation of the last lot in the entire project or when the dedication of "O" Street by the adjacent property owners is made in conjunction with future development proposals.
21. Turn around at the end of Main Street by the Historic district until the connection to MD 355 is established.
22. The applicant shall provide signs for the Class III bike path along Main Street.

Park/School

23. If applicable, per MC Public Schools memo of December 31, 1997, in the Appendix, the applicant shall conduct a testing program, the final report signed and sealed by a registered professional engineer, authenticating the adequacy of the deposited soils to support typical building foundation loads.
24. The Greenway path to include sufficient space to provide for a lighting, stabilized path and adequate headroom for pedestrian crossing under the Main Street Crossing;
25. The parks/school dedications schedule to conform to Preliminary Plan # 1-95042 Conditions 6 and 7, see Appendix.
26. All sales contracts, advertising and other information shall include notification that there is an active park in the area and that traffic calming measures will be installed with final paving.
27. All construction within M-NCPPC property to meet with Parks Department specifications and approval prior to release of construction permits for the park.

Historic Preservation

28. The right-of-way for Stringtown Road should be no closer to the historic Day House than 15 feet from the porch column, subject to MCDPW&T and MCDPS approval of cross section.
29. Lighting at all road intersections within the Historic District, and especially at Stringtown Road and Frederick Road, should be designed to have a minimal impact on the Historic District. The lighting within the Historic District - both fixtures and intensity - should be compatible with the historic and residential character of the area, as allowed by the utility companies and MCDPW&T and MCDPS.
30. Per the Project Plan approval, when the ROW is made available, construct Main Street to MD 355 within the Historic District prior to completion of the project. At such time when the land is made available, share direct moving expenses only for relocating an existing house within the Historic District, and if the applicant and owner agree, make available the identified outlot to be merged with a portion of the adjacent parcel so as to create another lot.]
31. A detailed design for the public space/interpretative area which will include the Clark Family Cemetery headstones must be submitted for staff review and approval prior to release of signature set. Protection of the headstones from weather deterioration should be a high priority and should be specifically addressed in the detailed design submission. It would also be desirable for the marker to be located in a more central area and better integrated into the public open space than is being provided.
32. The lot lines shall be adjusted so to include Outlot "A" to single family home area directly adjacent to the Historic District, to fulfill the Project Plan condition to approximate R-200 zone lot width standards.

Site Planning, Landscaping and Lighting

33. Detailed landscaping plans for this site plan to be approved by staff prior to the signature set and should reflect the design concepts, the sizes and planting conditions established in the submittal and to consider the climate suitability and their potential to be deer proof.
34. Final Lighting plans for the internal streets to be comparable to the "Hagerstown" light fixture shall be configured so as to reduce the glare into the night sky by utilizing appropriate wattage, shields or other techniques that are in conformance with utility company and MCDPS and MCDPW&T requirements.
35. Landscaping Plan to show interim landscaping for the Town Square prior to the construction of adjoining units, for staff review and approval.
36. The MPDU townhouses in the Town Square District must include recreation areas near by;

the site plan and record plats must identify all MPDU locations.

37. Landscape plans to include: a partial evergreen screen along Stringtown Road; detailed plans for greenway to include planting on steep slopes; additional planting within the SWM facilities; and a sidewalk connection from the street sidewalk to the property line from Street "O" to the adjoining church.
38. The applicant may propose compatible changes to the units proposed, as market conditions may change, provided the fundamental findings of the Planning Board remain intact and in order to meet the Project Plan and Site Plan findings. Consideration shall be given to building type and location, open space, recreation and pedestrian and vehicular circulation, adequacy of parking etc. for staff review and approval.

Community Planning

39. The applicant shall work with the County executive staff to identify a suitable civic building to be located on the town square within the area to be dedicated for that use.

Project Administration

40. The Site Plan Enforcement Agreement to include the following: plat schedule as submitted to staff; complete language of condition 6 and 7 from Preliminary Plan #1-95042 regarding the ball field dedication and construction schedule; reference to the "agreement for Exchange of Land" to include timing triggers of dedication for MCPD Legal's review and comment; reference to the validity period; maintenance for all private recreational area, SWM, open spaces; etc ; and that the level of maintenance for entire project to be of equal quality and not solely dependent upon contributions of an individual area.
41. The Home Owners Association documents or equivalent to include provision for: complete public use and access to private streets for vehicular and pedestrian use; that they shall be permanently open for public use ; that the parking spaces may be assigned to individual units; that maintenance of streetscape items within the public right-of-way ie brick walks, trees, lights, etc. be assumed by the HOA.
42. The Development Program shall include: staging of amenities to occur with site plan construction and to include MCPD review and approval of path location within the Greenway park prior to construction.
43. No construction of units adjoining Midcounty Arterial in Block M , per Preliminary Plan #1-95042 Condition 16e, until the Mid-County Arterial is built.
44. The Planning Board recommends that the vertical alignment and grading of the landscape strip and bikeway along the northern R.O.W. of Stringtown Road to be designed such that

retaining walls are not required in the vicinity of the historic house, subject to the review and approval of MCDPS and MCDPW&T.

APPENDIX A:

STANDARD CONDITIONS OF APPROVAL DATED 1/16/98:

1. Submit a Site Plan Enforcement Agreement, Development Program, and Homeowners Association Documents for review and approval prior to approval of the signature set as follows and as stated above in other conditions:
 - a. Development Program to include a phasing schedule as follows:
 - 1) Street tree planting must progress as street construction is completed, but no later than six months after completion of the units adjacent to those streets.
 - 2) Community-wide pedestrian pathways and recreation facilities must be completed prior to seventy percent occupancy of each phase of the development.
 - 3) Landscaping associated with each parking lot and building shall be completed as construction of each facility is completed.
 - 4) Pedestrian pathways and seating areas associated with each facility shall be completed as construction of each facility is completed.
 - 5) Clearing and grading to correspond to the construction phasing, to minimize soil erosion;
 - 6) Coordination of each section of the development and roads;
 - 7) Phasing of dedications, stormwater management, sediment/erosion control, recreation, forestation, community paths, trip mitigation or other features.
 - 8) Phasing of site clearing and grading to minimize soil erosion;
 - 9) Phasing of stormwater management and forest construction.
2. Signature set of site, landscape/lighting, forest conservation and sediment and erosion control plans to include, in addition to other requirements, for staff review prior to approval by MCDPS:
 - a. Undisturbed stream buffers at least 120 to 150 feet wide as shown on the site plan;
 - b. Limit of disturbance;
 - c. Methods and location of tree protection;
 - d. Forest Conservation areas;
 - e. Conditions of MCDPS Water Quality/Stormwater Management Concept approval letter dated January 15, 1998;
 - f. Note stating the M-NCPPC staff must inspect tree-save areas and protection devices prior to clearing and grading;
 - g. The development program inspection schedule.
 - h. Category I conservation easement and park dedication boundary
 - i. Street trees along all public and private streets inclusive of the arterial streets surrounding the project;
 - j. Centralized, screened trash areas for all multi-family and one-family attached units

except townhouses.

- k. Details for and location of noise fencing to attenuate current noise levels to no more than 45 dBA Ldn for the outdoor back yard area of homes at Stringtown Road and Midcounty Arterial.
- l. Certification from a professional acoustical engineer that the building shell will attenuate current noise levels to an interior level not to exceed 45 dBA Ldn.
3. Forest Conservation Plan shall satisfy all conditions of approval prior to recording of plat and MCDEP issuance of sediment and erosion control permit.
4. No clearing or grading prior to Planning Department approval of signature set of plans.

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PHASING PLAN

1. General:

(a) The common areas and local recreational facilities for each Phase shall be completed and conveyed to the Association with any required improvements thereon no later than the earlier of:

(i) The date that the Deeds to Lots representing seventy percent (70%) of the Lots planned to be within such Phase have been delivered by Developer and title closed thereon, or

(ii) Sixty (60) months from the date of receipt of the initial building permit for a Unit in that Phase ("Local Recreational Facilities Completion Date").

(b) All community-wide facilities within Site Plan 8-98001, must be completed and conveyed to the Association no later than the earlier of the receipt of a building permit for the 540th Lot/Unit or by fifteen (15) years from the date of the Site Plan Approval ("Community-Wide Facilities Completion Date"). All remaining common areas must be conveyed to the Association on or before the Community-Wide Facilities Completion Date.

2. Stipulations:

(a) Prior to conveyance to the Association, all Lot Owners shall have the right to access and make use of all such common areas, except such areas as may reasonably and necessarily be prohibited by Developer for temporary safety reasons.

(b) Developer must construct all recreational facilities and convey such facilities and common areas within the timeframes contemplated in the Phasing Schedule and in these binding elements. Developer must arrange for inspections by Staff to ensure that all facilities are timely, correctly and completely constructed.

(c) All local and community-wide recreational facilities shall be designed and constructed in accordance with Parks Department standards and criteria and the adopted Recreational Facilities Guidelines.

(d) Developer shall warrant to the Association that all facilities have been constructed in a good and workmanlike manner.

(e) Unless the Planning Board has agreed to modify the Phasing Schedule, the Developer's failure to timely complete and turn over facilities and common areas shall operate to preclude Developer from receiving any additional building permits for that particular phase and all remaining phases until such time as the default is cured.

(f) The Developer may seek an amendment to any regulatory approval for the purpose of modifying the location and amount of real property comprising the common area and for the purpose of modifying the improvements to be constructed on such common area, including, but not limited to, the right not to construct such improvements, which amendment shall be reviewed by the Planning Board in accordance with applicable law. Such amendment shall be effective only if approved by the Planning Board.

3. Plat Recordation Phasing:

Developer shall record subdivision plats for the development in accordance with the following phasing schedule:

Phase I will consist of at least 200 units and will be recorded by March 26, 1999.

Phase II will consist of an additional approximate 569 units and will be recorded by March 26, 2002.

Phase III will consist of the remaining units (approximately 531 units) and will be recorded by March 26, 2005. The retail and office parcels will be recorded by March 26, 2005.

4. Park/School Dedication and Related Actions:

Preliminary Plan 1-95042 Condition No. 6 - Dedication of the proposed park/school, as shown on the Developer's revised preliminary plan drawing, is to be made to the M-NCPPC. In order to facilitate the implementation of the combined park/school facilities, the following provisions apply:

(a) M-NCPPC and the Developer hereby agree to an exchange of land, identified as areas "B1" and "B2" on the park/school concept drawing set out on Circle Page 49 of the staff report for Preliminary Plan 1-95042 dated September 22, 1995, a copy of which is attached hereto and made a part hereof as Exhibit "F", under such terms and conditions as the parties determine are necessary and appropriate. The precise boundaries of each parcel to be exchanged shall be determined when the area containing the exchange parcels receives site plan approval from the Planning Board and a final subdivision plat for such parcels

is prepared and recorded among the Land Records. The dedication shall occur contemporaneously with the subdivision plat recordation.

(b) Dedication of the approximately 8-acre area, identified as Area "A" on the same park/school concept drawing identified above, will occur either at the time of recordation of the plats for the adjacent phase of the project or at such time as funds for 100% construction of the future elementary school are added to the County CIP, whichever occurs first. Under no circumstances shall Developer be obligated to construct road access to the park/school site.

(c) The Developer will provide site grading, infield preparation and seeding of the replacement athletic fields on the approximately 8 acres of dedicated land at a time which insures that there will be no disruption in the continued use of the existing athletic fields prior to completion of the replacement athletic fields. Seeding shall be done to Parks Department specifications.

(i) In the event that dedication occurs when funds for the proposed school are shown in the CIP, applicant will complete work on the replacement fields prior to the construction of the proposed school.

(ii) In the event that dedication occurs prior to funding for the school being shown in the CIP, then upon construction of Street "F", as shown on the revised preliminary plan, applicant will commence work on replacement of the baseball field. In addition, if at site plan it is determined that there is sufficient earth material on site to construct both replacement fields, then applicant will also rough grade and seed the replacement soccer field when construction of Street "F" begins. Area tabulations for the proposed park/school complexes to be submitted for technical staff review at site plan. Final grading plan for the park/school site to be submitted for technical staff approval as part of the site plan application.

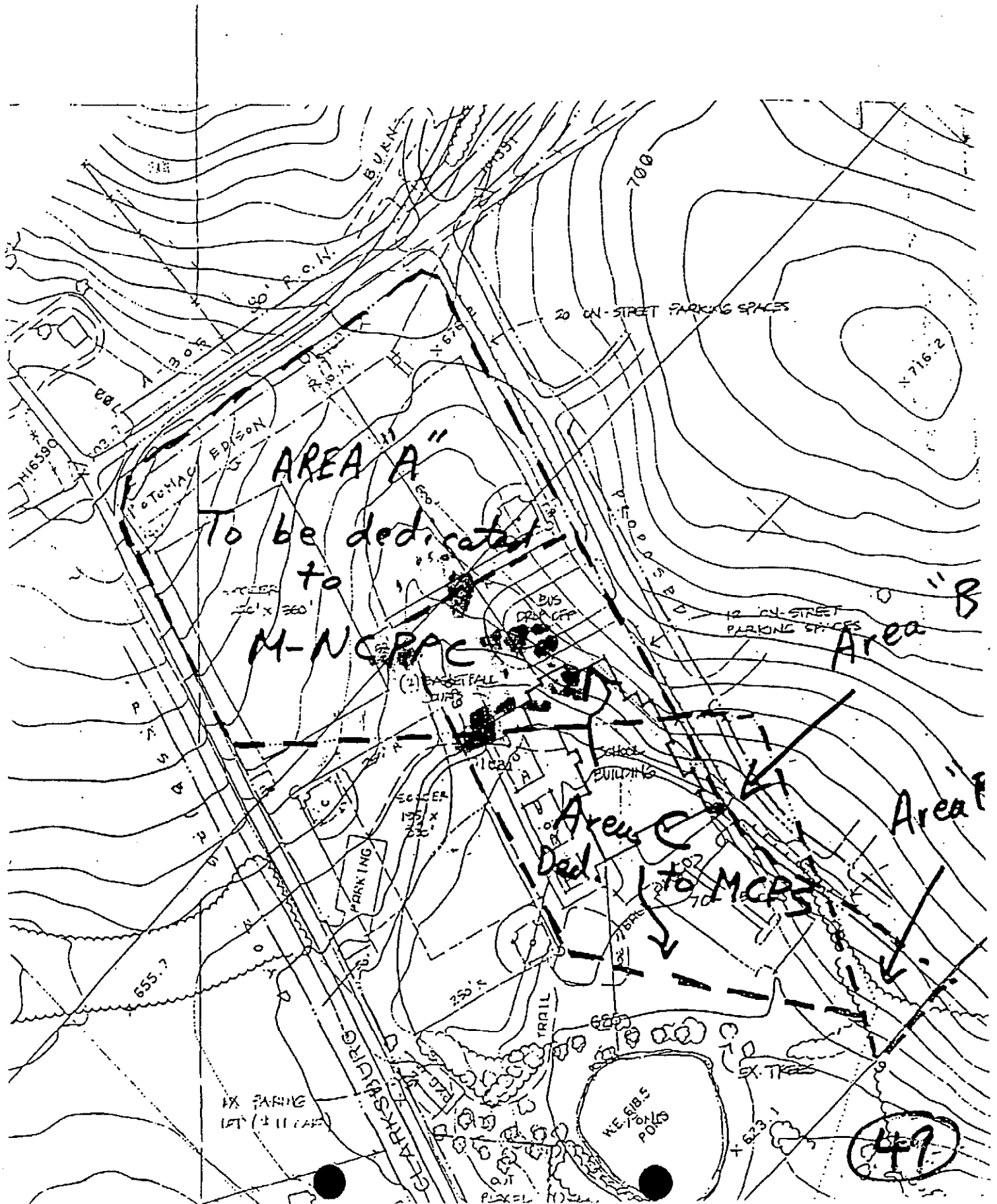
Preliminary Plan 1-95042 Condition No. 7 - In accordance with Preliminary Plan 1-95042 Condition No. 6, Developer hereby agrees to enter into an agreement with the Planning Board to provide for site grading, infield preparation and seeding of the replacement athletic fields in accordance with Parks Department specifications, as shown on the approved preliminary plan drawing, and as specified in the Department of Parks' memorandum dated September 22, 1995, a copy of which is attached hereto and incorporated herein in full as Exhibit "G". Such agreement shall be executed by Developer prior to the

commencement of construction of the replacement athletic fields as specified in Paragraph 4(c) above.

5. Effect:

It is agreed by the parties that the Developer has modified the site and landscape plans as required by the Planning Board's conditions of approval for Site Plan Review 8-98001 as set forth herein. Such modifications are reflected in the approved signature set of drawings.

CLARKSBURG TOWN CENTER



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Department of Parks, Montgomery County, Maryland
9500 Brunetz Avenue • Silver Spring, Maryland 20901

September 22, 1995

MEMORANDUM

TO: Joe Davis, Development Review

VIA: Terry H. Brooks, Chief, Park Planning and Development *THB*

FROM: Tanya K. Schmieler, Park Planning and Development *TKS*
Eugene Elliott, Park Planning and Development *E.E.*

SUBJECT: Preliminary Plan 1-95042 - Clarksburg Town Center

The purpose of this memorandum is to present comments on the park/school site proposal for Preliminary Plan 1-95042- Clarksburg Town Center.

RECOMMENDATION

The Department of Parks recommends that if a park school is located at this site, the following should be required.

1. The park-school site should include sufficient land area to accommodate the current recreation facilities at the existing Kings Local Park, plus standard facilities associated with a new elementary school, sufficient parking, and adequate buffer separation between facilities and roadways and the power line, to allow for safety and grading. The attached sketch plans achieve these objectives.
2. The developer should dedicate the area adjacent to the power lines to M-NCPPC Department of Parks (Area "A"). As the park site was purchased with Program Open Space Funding, approval of the Maryland Board of Public Works is necessary to accommodate a land exchange. This approval is generally granted if the exchange site is of equal or greater acreage and recreational benefit. Following site plan approval, M-NCPPC would apply to the Board of Public Works for permission to exchange the new dedication for the small area needed by the developer for the proposed road adjacent to the site (Area "B 1"), and the area needed by BOE for the

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MONTGOMERY COUNTY PARKS

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school building, parking and bus drop off basketball court and playground (Area "B 2"). The ballfield area would be retained by M-NCPPC, but could be utilized by the school during the school day.

M-NCPPC would grant an easement for the land needed by the developer for the proposed road (Area "B 1") and the land would be deeded to the developer following his grading and seeding to park specifications of the proposed athletic fields and parking area within (Area "A"). The new road will reduce the size of the existing softball field and the field may need to be closed during road construction. (Department of Parks would provide goals, backstops and gravel for parking lot).

Land needed for the proposed school would be deeded to the Board of Education when they have approved monies in the Capital Improvements Program for school construction. There is precedent for this at a few other park-school sites (Clear Spring, Germantown Estates and Blueberry Hills) where entire park-school site has been held by M-NCPPC until school construction.

3. The site will serve as a park until school construction occurs. If the Board of Education ultimately determines that a school is not needed at this location, the entire site will be retained as a public park.
4. The 5 acre portion of the park that contains the pond, picnic/playground and small parking lot should remain intact and available for use by the general public.

BACKGROUND INFORMATION

Over the last several months staff from the Department of Parks, Department of Planning, and Montgomery County Schools have been working towards the delineation of a park school site that meets the objectives outlined above. The Department of Parks is not opposed to the park/school concept, but sites previously recommended by the developer did not meet these objectives.

The existing Kings Local Park site currently serves the Clarksburg Community and will also be utilized by the future residents of Clarksburg Town Center. If a school is needed to serve the approximately 1300 units proposed on the Plan, it should be constructed with the standard acreage and facilities provided at other elementary schools.

PARK AND SCHOOL REQUIREMENTS

A summary of the space requirements for a park/school site at this location are as follows:

Park Requirements-

Retention of current park facilities at Kings Local Park including:

Kings pond, picnic area, playground and parking- 5 acres
Softball field - 315' outfield
Soccer field- 220 x 360'
Parking- 30 spaces existing (additional planned spaces)

Elementary School Requirements-

Montgomery County Public Schools (MCPS) has indicated that all school facilities must be at least 600 feet from the electric power line. Elementary school program requirements as conveyed by MCPS are as follows.

School building to accommodate 640 students- 87,000 square feet
2 Multi- use court areas (each 80'x 100'ft)
Playground (75'x 75')
Small fenced kindergarden playground 40'x 60'
Pre-school playground 40'x 60'
Bus turnaround and car drop off areas
Service access and service drive
70 parking spaces
2 softball fields- (250'outfields)
1 football/soccer overlay

Other Requirements-

Buffering - Adequate space is needed for grading and safe distances between facilities. It is recommended that 50 feet be provided between all facilities as well as the road, and that a 100 ft buffer be retained from the power line.

Parking - This facility will result in a total of three community use fields and a practice field. Our parking standard is 50 on-site parking spaces per field. If the elementary school has 70 parking spaces, the park should provide 75-80 spaces to fully provide for the need. On-street parking area should not be used to calculate this parking requirement but can provide for overflow parking needs.

Topography - The parks Department requires gentle slopes which do not exceed a ratio of 4:1 in order to accomodate our grass mowers for maintenance purposes. At least one of the athletic fields must meet ADA guidelines.

Storm Water Management - It is our understanding that storm water management for the school site will be provided by a new pond in the greenway to the south of the school site. This pond should not be maintained by M-NCPPC.

Relationship of Current Plan to Site Requirements Listed Above-

The concept development plan would achieve recreation facility requirements. When the school is constructed, an area for additional on site parking will need to be determined, and could possibly be provided adjacent to the power line. Buffering requirements are not fully met, but it is anticipated that with some safety fencing and buffer planting, problems will be minimal.

SITE PROPOSALS

While specific site layouts can be determined by the Commission at the regulatory site plan review stage, it is necessary to establish the configuration of the park/school site and adjacent roadways now. The workability of this concept depends on the placement of the school related facilities within area C. It is our understanding that architects from the Board of Education have concurred that a school can be accommodated within this area.

Development of the Site Is Being Suggested In Two Phases:

Phase 1 - Recreational Use of the Site

Phase I retains the current park facilities in their present configuration and does not require regrading of the park site until school construction occurs. (see attached sketch). It would provide the minimum amount of distruption to the existing park users. It recommends having the developer locate two full size park facilities adjacent to the power line to replace the existing large fields that will be reduced in size when the road and the school are constructed. On an interim basis, four fields will be available for public use until the school is constructed. These fields will be used by northern area childrens and adults teams. The two new fields will continue to be usable during school construction.

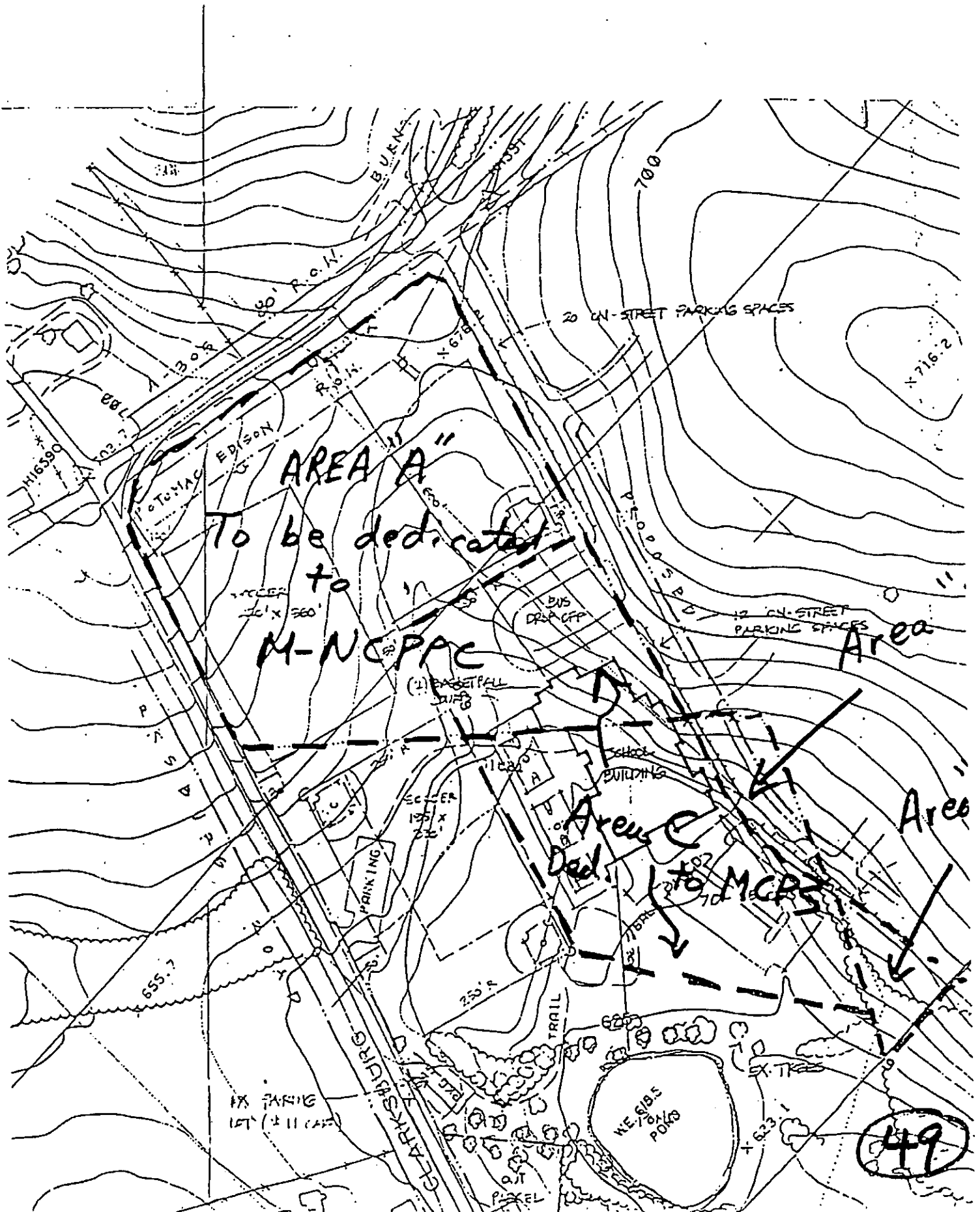
Phase II - Park-School Use of the Site

Phase II would occur when the Board of Education is ready to place a school on the site. It would retain the new fields adjacent to the power line, but requires regrading of the majority of the current park site to accommodate the new school and to realign the ballfield areas. It realigns the fields on the park property and downsizes them for school use. Existing park fields would be taken out of play during reconstruction and turf establishment (18-24 months).

CONCLUDING COMMENT

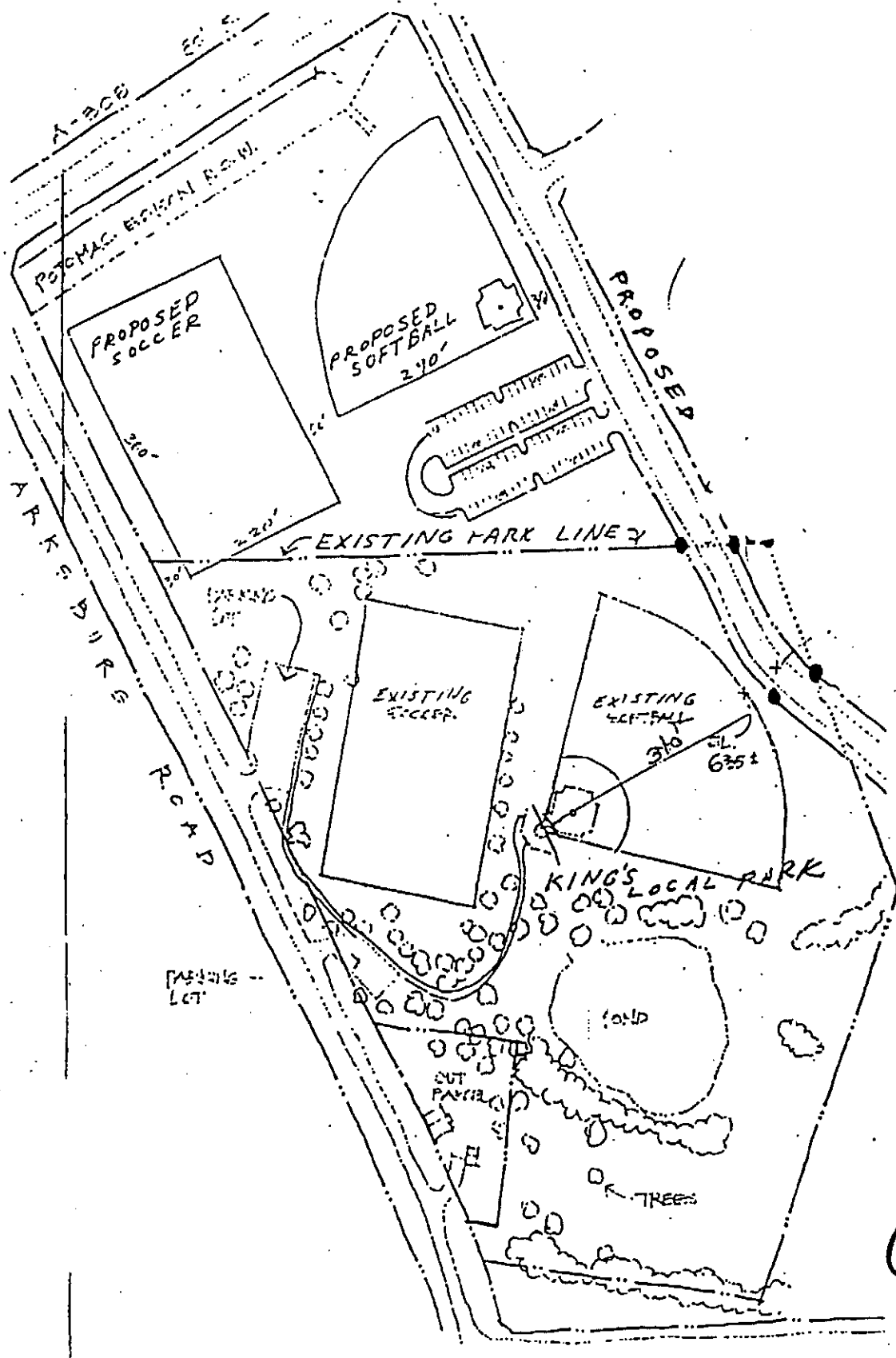
The Department of Parks is supportive of the park/school concept for Clarksburg Town Center. Although the implementation of this proposal severely impacts the existing Kings Local Park site, cooperative efforts to place both facilities in this location adjacent to the greenbelt is very beneficial to the public and fits with the overall innovative Town Center Development Concept. If a school is not ultimately needed at this location, the entire site should be retained as a public park.

CLARKSBURG TOWN CENTER



CLARKSBURG TOWN CENTER

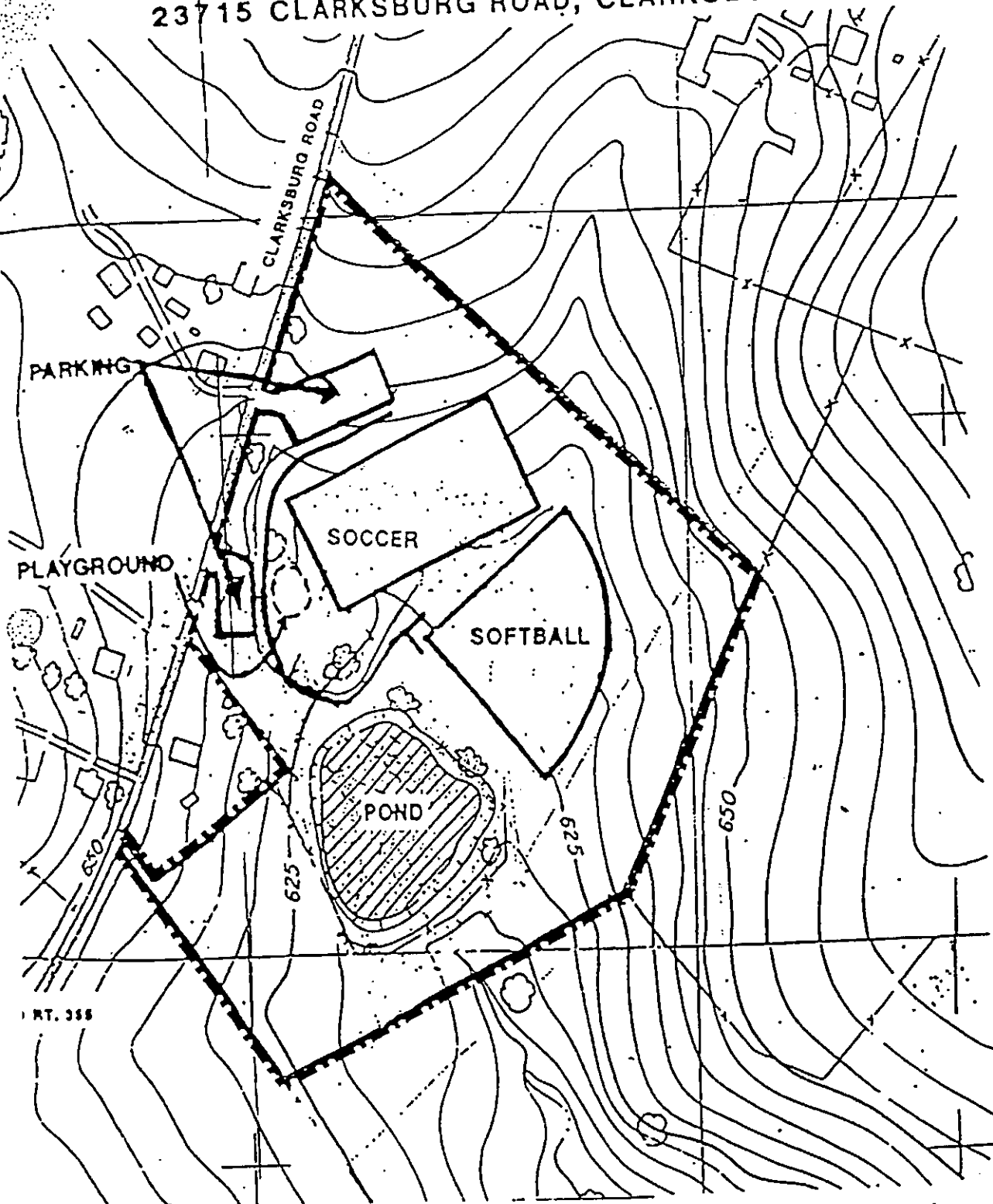
PHASE I



PHASE II




23715 CLARKSBURG ROAD, CLARKSBURG



NCPPC STAFF GUIDE 5-1E

SCALE 1" = 200'

	ACREAGE	13.8	REGION I, AREA A
	FACILITY CODE	D81	

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